

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARC FISHMAN,

Civil Action No.

PLAINTIFF,

19-CV-265 (NSR)

(VR)

-against-

CITY OF NEW ROCHELLE,

DEFENDANT.

-----X

300 Quarropas Street

White Plains, New York 10601

December 4, 2023

10:10 a.m.

Examination Before Trial of ANN ELLIOTT, a
Non-Party Witness in the above-captioned matter,
held at the above time and place, before Howard
Breshin, a Notary Public of the State of New
York.

ELLIOTT

A P P E A R A N C E S:

LAW OFFICE OF CANER DEMIRAYAK

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BY: LALIT LOOMBA, ESQ.

914 997-0555

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties hereto, that this
examination may be sworn to before any
Notary Public.

IT IS FURTHER STIPULATED AND
AGREED that the sealing and filing of
the said examination shall be waived.

IT IS FURTHER STIPULATED AND
AGREED that all objections to questions
except as to form shall be reserved for
trial.

STIPULATIONS

(Defendant's Exhibit A, a
Subpoena, so marked for
identification.)

A N N E L L I O T T, a witness called on
behalf of the Defendant, having been first duly
sworn, was examined and testified as follows:

THE COURT REPORTER: Can I have
your name and address for the record?

THE WITNESS: My name is Ann
Elliott. My address is 898 St.
Nicholas Avenue, New York, New York
10032, Apartment 121.

EXAMINATION BY

MR. LOOMBA:

Q. Good morning, Ms. Elliott.

A. Good morning.

Q. My name is Lalit Loomba. I am an
attorney with the Quinn Law Firm and we represent
the City of New Rochelle in a civil action
entitled Marc Fishman versus City of New
Rochelle, and it is pending in the federal
courthouse, and we are here to take your
deposition.

As you know, we served a subpoena on

STIPULATIONS

you that required your attendance today. I want to thank you very much for appearing. Can you hear me okay?

A. Absolutely, yes.

Q. Okay, great. You understand you have been sworn in to tell the truth?

A. I do.

Q. Any problems with giving truthful answers today?

A. Absolutely not.

Q. Have you testified under oath before?

A. I have.

Q. Many times, I imagine?

A. Quite a few times.

Q. I am going to show you what we marked as Exhibit A, which is the letter and the subpoena that we served on you sometime shortly after November 6th.

A. Yes. I am familiar with the document.

Q. You recognize that as the subpoena?

A. Yes, it is.

Q. In the subpoena, in the central part here the subpoena calls for you to bring with you any emails or text messages with Marc Fishman

STIPULATIONS

concerning the referenced action, which is the civil action, and/or the deposition notice through the subpoena.

Did you bring any documents with you today?

A. I don't have those phones anymore -- that phone anymore so I have no text messages to forward. And unfortunately, it slipped my mind to bring any emails that I have for Mr. Fishman.

Q. Do you have emails from Mr. Fishman?

A. Yes, I do believe since the time I started the supervised visitation for the family, I do have emails going back to that day.

Q. The emails that you just referenced, are they on a computer at your home or in your office?

A. On my laptop at home.

Q. All right. So I am going to request that when you, you know, when it is convenient and you get back to your computer, that you email, forward those emails to me. Can you do that?

A. Absolutely, sure.

Q. Excellent.

STIPULATIONS

MR. DEMIRAYAK: Note my objection to the extent the request is overbroad. Over my objection you can continue.

MR. LOOMBA: I will give you my email address later so we can get that.

MR. DEMIRAYAK: I request that if any emails are going to be forwarded to defense counsel, they also be forwarded to plaintiff's counsel, and we'll give you our email address as well.

Q. Do you have any problems with that, Ms. Elliott?

A. No, I don't.

Q. Okay. Ms. Elliott, what is your highest level of education?

A. Master's in business leadership.

Q. Where do you have that?

A. Concordia College of New York.

Q. Is that the one in Bronxville?

A. Correct.

Q. What year did you get your master's?

A. 2017.

Q. Where did you get your bachelor's degree?

STIPULATIONS

A. City University of New York, City College.

Q. What year was that?

A. In 1990.

Q. What was your degree at City College in?

A. Sociology.

Q. Are you currently employed?

A. I am currently employed.

Q. What is your job?

A. I am a family services coordinator with Children's Village.

Q. Is that the institution in Dobbs Ferry, New York?

A. That's our headquarters. I am at the Fordham Avenue location in the Bronx.

Q. And how long have you had that job?

A. I am two weeks in.

Q. Congratulations.

A. Thank you.

Q. What was the job that you had before that?

A. I was still with Children's Village as a family team conference facilitator.

STIPULATIONS

Q. How long did you hold that?

A. From February 2022 until November 20th of 2023.

Q. Were you employed before February of 2022?

A. I was, I was employed with Little Flower Children's Services and I was employed with them from March 2020 until February of 2021 and I was a case planner.

Q. And before your job with Little Flower Children's Services were you employed?

A. Yes, I was employed with Sauti Yetu, S-A-U-T-I Y-E-T-U. I was a family team conference supervisor from 2018 to 2019.

Q. When did you start that job?

A. November 2018 until September 2019.

Q. Was that the job that you had on December 15th of 2018?

A. Yes, it was.

Q. Okay. So in addition to your employment at Sauti Yetu -- is that one word or two words?

A. Two words.

Q. Okay, I got it. Did you also serve as

1 STIPULATIONS

2 a court-appointed visitation supervisor?

3 A. Yes, I did.

4 Q. And was that something that was part
5 of your job at Sauti Yetu or was that separate
6 and different?

7 A. It was separate with me being a
8 private contractor for the Supervised Visitation
9 Network, and so I am listed on there as a private
10 contractor. And so I did that part time in
11 addition to what I do at 9 to 5.

12 Q. How long have you been listed as a
13 private contractor in this network?

14 A. I think I had just listed myself when
15 Mr. Fishman reached out to me.

16 Q. Was Mr. Fishman the first-- your
17 first client?

18 A. Yes.

19 Q. Is that how you would refer to him as,
20 your client?

21 A. Yes, ah-hah.

22 Q. And when you work as a private
23 contractor for court supervised visitation, how
24 are you paid?

25 A. I was paid by Mr. Fishman.

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Q. And what rate would he pay you at?

A. I was_-- my rate at the time I believe was \$50 an hour. That was paid in cash or by check.

Q. Just stepping back for a second.

After you received the subpoena, did you have any communications with Mr. Fishman about it?

A. He reached out to me because Isabella had gotten it and so he wanted to know if I did and I said yes, and I have to submit to a deposition also.

Q. When he reached out to you, was it a telephone call?

A. It was a telephone call.

Q. Did you have more than one call with Mr. Fishman about the subpoena or was it just one call?

A. It was just one call, I believe.

Q. And, you know, not word for word, but in sum and substance can you tell me what Mr. Fishman said and what you said during the conversation?

A. Well, basically that conversation was

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A. Supervisor.

Q. Is that okay?

A. Yes.

Q. Did you have to be formally appointed as the visitation supervisor by the court?

A. Absolutely, had to be court approved.

Q. Can you describe that process?

A. I forward my resume over to, I believe it was a court-- I can't remember if it is the administrative clerk, and then they review it and then they get back to me and they would tell me that, you know, I am approved to do the visits, and that's what occurred.

Q. And before your first visit in which you were the supervisor, did you review any court orders or visitation agreements or anything of that nature?

A. I did. I requested the first, you know, the last stipulation, court order from the court which was forwarded to me, so I read through that, the stipulation around the visits.

Q. And what was your understanding of the stipulations for visits with the Fishman-Solomon children?

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MR. DEMIRAYAK: Just note my objection. The witness said she requested it, she didn't say she reviewed it. Maybe ask her the question.

Q. Sure. After receiving the documentation from the court, did you review that documentation?

A. I reviewed it.

Q. Did you form an understanding what the stipulations were?

A. Yes, this was five years ago so I haven't reviewed anything prior to being here but to my recollection, brief recollection is that Ms. Solomon would drop the children off, she would park a few yards from the home and I will pick up the children, receive the children. When she leaves, then the children or Mr. Fishman could be present and so they were going to the home. When the visit--

Q. Let me stop you for a second. When you say the home, which home are you referring to?

A. Mr. Fishman's apartment.

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Q. Where was that in 2018?

A. I forgot what street it was on but it was in Riverdale.

Q. The Riverdale section of the Bronx?

A. Yes.

Q. So if I understand correctly, Ms. Solomon would bring or would drive the children--

A. Drive the children down.

Q. To a location near Mr. Fishman's home?

A. Yes.

Q. Then you would meet the children by her car?

A. Yes.

Q. Then Ms. Solomon would drive off?

A. Correct.

Q. And then you would bring the children into Mr. Fishman's apartment?

A. Correct.

Q. How many children were there?

A. There were four.

Q. What were their ages in 2018, approximately?

A. Oh, I think Skye and Aiden maybe 10,

STIPULATIONS

start at the same time?

A. Yes, they always start at the same time.

Q. What time was that?

A. 10 o'clock. 10 or 11, I can't recall.

Q. So visits would run from 10 to approximately 2 in the afternoon?

A. Yes, ah-hah.

Q. Were you always present during the visits?

A. Always present during the visits.

Q. And at the end of the visits how would the children return to Ms. Solomon?

A. We would return either by his aide driving and me with the kids in the car or --

Q. Sorry, when you say his aide, do you mean Isabel Bolivar?

A. Isabel Bolivar. Or most of the time we took a passenger Uber car service and we drove up with the kids.

Q. When you say "we drove up," you meant that you would drive to Ms. Solomon's home?

A. Correct.

0. That's the home located in New

STIPULATIONS

ever a different location that you would pick up the kids from or drop them off from?

THE WITNESS: Yes, I was waiting for that follow-up question.

Q. Why don't you explain that?

A. Yes. Sometimes when Jonah had hockey we would meet up for breakfast in New Rochelle and we would have breakfast. She would drop, you know, the breakfast -- the drop-off, I would pick up Jonah from the home, with Ms. Solomon's permission for that to happen, and we would park a few yards from the home and that was the pick-up. We go to breakfast and then to the hockey rink.

Q. And when you picked up, was it all four children?

A. I think we did the hockey rink maybe three times. The first time was all four children. I think another time it was -- at that time Ms. Solomon was there also. I think the second time it was with all children without Ms. Solomon there. And then the third time it was just Jonah we went to pick up, which was the day

STIPULATIONS

in question of the arrest.

Q. Understood. When you say Ms. Solomon was there for those visits, can you explain?

A. Prior to -- it was very important for Jonah to have both his parents see him play hockey, so I had extensive discussions with Ms. Solomon about that and she agreed for that to occur. And my stipulation, we made the arrangement how this would happen in light that I was told there is an order of protection, I never saw one, never got one. So Ms. Solomon was okay with that. In terms of her proximity to Mr. Fishman, that was on her discretion.

My role is to make sure that the children, you know, interacted with their father and all of that. But if I felt that that whole environment was being threatened on the opposite of the order of protection, it is also my discretion to make other arrangements and not allow that to happen again.

Q. Let's take the first of these occasions. Just walk us through exactly how the day went.

A. That day Ms. Solomon brought the --

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2 that day Mr. Fishman and I and the aide would
3 drive, were at the rink and then Ms. Solomon came
4 with Jonah and the children. And so she
5 proceeded to go inside because Jonah wanted his
6 father to assist him with the hockey gear. And
7 so she understood that, she said okay, I will go
8 in. So she was at the far end of the hockey
9 field.

10 Mr. Fishman came and helped him, you
11 know, dress in his gear. The other children also
12 are in the same place where we were. And then we
13 proceeded to enter into the rink area. And Mr.
14 Fishman was, you know, by a prearrangement, was
15 at the other end of the rink. When there is
16 engagement, Jennifer never really moved from her
17 end.

18 Jonah, it was important for him to
19 have that engagement with his father as a son. A
20 young boy, you know, loved hockey. So Mr.
21 Fishman and I was always in the presence of the
22 children, went with Jonah, we entered the hockey
23 rink, we stood there, we cheered him on, watched
24 him play hockey and everything. And then after
25 it was over, it was time for Ms. Solomon to take

STIPULATIONS

them home.

Jonah begged and pleaded and pleaded and begged to sit and have lunch with his dad. And so I spoke to Ms. Solomon about it and I said, you know, this is what Jonah wants, he would love to sit and eat with his dad, because they had a little stand, food stand there. And Jennifer consented, okay, if he wants that, I will allow it, and so she left. Jonah sat with his dad with his other siblings, aide, and then we drove the children back home.

Q. When you say aide, you mean Ms. Bolivar?

A. Yes, Ms. Bolivar.

Q. When you drove the children back home, so there would have been three adults and four children in the car?

A. Yes.

Q. Right, you, Ms. Bolivar, Mr. Fishman and all the four children?

A. Correct.

Q. And then who drove?

A. Ms. Bolivar.

Q. And then how were the children brought

STIPULATIONS

back to Ms. Solomon?

A. I do. We park yards away from the home.

Q. How many yards?

A. I would say three, four, five houses.

Q. Okay.

A. Yes. And the yard space, with the yard space in between. And then I would take the children out and then we would walk to the home.

Q. That was the first time that the visitation was done at the hockey rink?

A. Yes.

Q. Do you remember the date of that, by the way?

A. I can't recall.

Q. Was it the fall, summer, something different?

A. It was probably in the fall, yes.

Q. Can you describe the second time that the visitation was done at the hockey rink?

A. Yes. I think Ms. Solomon may have dropped the kids off at the time and left.

Q. Dropped them off where?

A. At the hockey rink.

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Q. All four kids?

A. Yes. And then she left and then we -- you know, Jonah had his hockey game and then again it was over, had a snack or something and then went back.

Q. That was all four children?

A. Yes, I believe it was all four children.

Q. In terms of dropping the kids off at the end of that visit, was it the same as you described before?

A. Correct.

Q. Do you remember the date of that visit?

A. I can't recall.

Q. When you were supervising the children's visits did you have an opportunity to communicate with Mr. Fishman in person?

A. Yes.

Q. You would speak to him regularly, right?

A. Yes.

Q. And when you were talking with him in person did you ever observe him to have any

STIPULATIONS

Q. Where?

A. At 231st, the number 1 train, and then we drive to the home before the children arrive. That's usually the standard way of me getting there. They would pick me up from the train station and then we ride over to home.

Q. Okay. So you had earlier described the first of two of three visitations at the hockey rink.

A. Yes.

Q. Is that correct?

A. Yes. I think it was three, two and then the time in question when the arrest.

Q. Okay. So the incident date is 12/15, December 15th of 2018.

A. Ah-hah.

Q. Do you recall the immediately preceding visit? So if it was every two weeks, it would have been December 1 of 2018. Do you recall that visit?

A. No, I can't.

Q. Do you recall a visit where some of the children got upset?

A. Yes, I think that may have been that

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visit.

Q. Can you tell me what you can remember about that?

A. I think -- oh my God, my brain is so foggy. But I think there was a situation where the children may have been upset and I know I intervened in that. I think they did not want to have that visit with Mr. Fishman and I relayed that to him and I did have a discussion around that with Ms. Solomon also.

Q. Let me stop you, I want to break that down. So when you say the children became upset, was this during a point where they were present with Mr. Fishman?

A. Yes. I think we went to a basketball -- if my memory serves me right, we went to a basketball court not too far away from home.

And I think Aiden was upset about something and Aiden came at his father about things he may have done to his mom when they were married. And I think Mr. Fishman was a little upset because he's trying to tell Aiden that's not the way it happened. And so Aiden was very

1 STIPULATIONS

2 upset, he was going at his dad, going at his dad.
3 Dad is trying to tell Aiden that's not the way it
4 happened. I think Aiden broke down and cried.

5 When he broke down and cried, his
6 father went over to comfort him, I think Aiden
7 kind of swang at his dad and his dad -- you know,
8 that's when I kind of stepped in because I was
9 observing, as I do in a therapeutic visit, his
10 father's approach to his son being upset, how is
11 his parenting going to happen, that is part of
12 what I do. So my observation was seeing him go
13 over to his son, trying to comfort him, this is
14 not the way it happened, Aiden. Aiden was very
15 upset.

16 So when I see Aiden became forceful in
17 pushing, that's when I said okay, and then asked
18 Mr. Fishman to step back because I could now tell
19 Mr. Fishman was getting a little upset after
20 repeatedly saying that's not the way it happened.
21 And mom said you did this. And so it was getting
22 a little bit beyond where it needed to be, not in
23 a comfort space. So I said, Mr. Fishman, step
24 back and I will handle this. And so that is what
25 happened.

1 STIPULATIONS

2 And so Skye is his twin brother and he
3 becomes very protective of Aiden, because I think
4 Aiden is the one that is mostly impacted by what
5 has happened between his parents and he has a
6 real sore spot against the dad. Skye is more
7 even keel. And so he kind of hugged his brother,
8 comforted him when I told Dad to step back.

9 It was difficult to redirect Aiden at
10 the time. He was very upset. Mr. Fishman was
11 also upset and, again, you know, sees what their
12 mom tells them. And so we went back to the home.

13 Q. Before you get there, were the older
14 two children, Joanna and Jonah, present while
15 this was happening?

16 A. They were also there present.

17 Q. Can you explain what their reaction
18 was to all this?

19 A. Joanna also went over to comfort her
20 brother. Jonah is more like happy-go-lucky, you
21 know, it is another day. He is like a
22 peacemaker, you know, tries to get everybody back
23 in harmony always.

24 And so, you know, we spent time
25 comforting Aiden. And then when he stopped

STIPULATIONS

crying, he was still upset, I could see he was still very upset, and we walked back to the home. And then I thought it was a good time for us to wrap up the visit and we head back to drop the children off.

Q. How did you get the children back at that time?

A. Isabella.

Q. She drove you?

A. She drove, yes.

Q. Now, to the best of your recollection, that was the visit that immediately preceded the incident date, December 15th, 2018?

A. I think it was that visit, yes.

Q. After you dropped the children off, was there communication between you and Ms. Solomon concerning the visit where Aiden got so upset?

A. Always. If there is a need to do a post conference with either parent, I always do that. And so I would discuss, because she is going to hear it from Aiden anyway, but as a supervisor it is my responsibility to relay what happened, what occurred. Discuss that with Ms.

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psychological well-being of the children.

And so there was a discussion as to whether we will have a visit or not have a visit. If there would be a visit without Aiden being there, and I think there was a subsequent visit and I don't think Aiden was there. I can't recall because it was five years ago.

Q. Right.

A. But I know around that time there was concern around that visit because the children were upset because Aiden was upset.

Q. Was the next visit which was scheduled for December 15th, was that ever canceled?

A. No, it was not canceled.

Q. Was it ever modified?

A. No. I specifically recall calling Ms. Solomon the Friday night because, you know, prepare and confirming visits, we text or whatever. And she said to me that the twins will not be there, they had something going on and that Joanna also had something else also going on, I don't know if it was school or what. But she said to me, you know, he is welcome to come up, take Jonah to breakfast and go watch Jonah

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play hockey. So that was the arrangement for that day.

Q. And that was a conversation that you had with Ms. Solomon on the Friday night before?

A. Correct.

Q. Was the arrangement going to be that Ms. Solomon would then drop off Jonah at the diner or the restaurant as you had done before or was it something different?

A. I think we decided to just pick him up because it was just Jonah, so we decided, okay, we will come pick him up.

But I also wanted to speak to Ms. Solomon because Mr. Fishman had told me that his daughter wants to see him, right, Joanna. Because I am having a discussion with both of them whether there is going to be a visit because of how the children were feeling and I was concerned about that. And he was like, well, Joanna wants to see me and I have texts that she loves me. And so I saw the text between him and Joanna. So I said, listen, I will come up because I need to show you the text between Joanna and her dad and my understanding is that,

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you know, this is not supposed to be happening.

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Q. You are describing a communication
between you and Ms. Solomon?

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A. Yes.

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Q. When was that communication?

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A. That was the Friday night.

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Q. The night before?

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A. Yes.

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Q. What did Ms. Solomon say?

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A. She said, okay, come on up.

12

And so I wanted her to see the text.

13

So we drove up that morning and Isabella parked

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the usual yards away from the home. And so I

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went on the doorstep, Jonah was -- she lives on a

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curve home, Jonah was at this house and there is

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like a little yard space and he was hitting the

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hockey, you know, against the fence, the ball

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rolls back, you know. And so I went on her

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patio, I am showing her the text, she is going

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through the phone.

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Q. Before you showed her the text, did
you ring the doorbell?

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A. Yes, she was expecting me.

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Q. So you rang the doorbell, she came to

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the door?

A. I rang the doorbell, she came to the door, she opened it.

Q. What did she say?

A. She said, hi, Ann, good morning. I said, hey Jennifer, how are you? I wanted to show you this text between Joanna and her dad. So it is going from I don't want to see my dad kind of feeling which is what she was saying to text that I want to see my dad.

Q. When you said she, you are referring to Joanna?

A. Joanna, yes. So I wanted to know which was it, you know. So she looked at the text and she said, oh, these are old texts, something that was dealt with in court sometime ago, it is not fresh text information. So I wasn't even aware of that. And then I said, oh, okay.

And so I think it was around that time Mr. Fishman and his aide passed the home, my back was turned, and turned the curve. And she said, what is he doing here, what is he doing here? I said who? And I turned around and I saw the car.

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By the time I turned around, it went to the side
3 where Jonah was.

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So I immediately ran down the steps,
go around the corner, Mr. Fishman was maybe a
yard space and two houses down. And I stood
between the car, the car was here, I was here and
Jonah was there. And so he came out of the car
and he said, hey, Jonah, you know, we are here to
pick you up, we are going to breakfast and go to
the rink.

12

And so Ms. Solomon came to the side_--

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Q. You are describing that is something
that Mr. Fishman said to Jonah?

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A. Yes.

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Q. Where was he standing when he said
that?

18

A. Jonah?

19

Q. No, Mr. Fishman.

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A. He was by the car, he came by the car
and stood by the side of the car.

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Q. His feet were on the road?

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A. On the road, yes.

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Q. How many feet between him and Jonah
when Mr. Fishman made that statement, if you can

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estimate?

A. Quite a bit because I was between them and I wasn't even that close to Jonah. Because I emerged from the car --

Q. Just give me an estimate in terms of feet, if you can. If you can't, you can tell me.

A. Wow, I don't want to give a guesstimate. For me in terms of safety, it simply was a very safe space and -- very safe distance I should say and no different from what we did in dropping off the children.

Q. And where was Ms. Solomon, if you know, if you could see her, when Mr. Fishman was addressing his son?

A. She was at the side of the patio, the end of it where you could see, you know, down to the street where we were, because she is on a corner home. And she could see Jonah, she could see myself, Mr. Fishman, the car. So that's where she was, which is a whole house and a yard space to where Jonah was in a yard space next to her house.

Q. When Mr. Fishman addressed his son did his son respond?

STIPULATIONS

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2 A. He didn't respond, he was sulking a
3 little bit. And so his dad again tried to get
4 his attention, but Jennifer was talking and I was
5 more focused on Jonah to grasp fully what she was
6 saying, you know. I think she was maybe he
7 shouldn't be here. You know, she was very upset,
8 just in hysterics, because usually we are so far
9 out of sight, you know. And so I think she was
10 probably alarmed at the close proximity or just
11 seeing him within the vicinity of her home, which
12 my understanding hadn't happened for so many
13 years, so I can understand how alarmed she was.
14 She was definitely triggered by seeing him and
15 she panicked and she was calling to Jonah, come
16 Jonah, get in, get in the home. And I said, you
17 know, I am here, you know, everything is going to
18 be okay. And so I spoke to Jonah and so_--

19 Q. What did you say to Jonah?

20 A. I said, hey, Jonah, you know, you
21 still want to go to the hockey rink? So he was
22 still sulking a little bit. My judgment was not
23 to allow that to happen that morning.

24 Q. Allow what to happen?

25 A. Not to go to the hockey rink.

STIPULATIONS

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2 Q. When you said to Jonah do you still
3 want to go to the hockey rink, did he respond to
4 you?

5 A. No, he didn't.

6 Q. He was silent?

7 A. He was a little silent but it wasn't a
8 tense silent. I said, Jonah, I am here to pick
9 you up to go to hockey, so when I said that I
10 noticed his facial expression softened a little
11 bit more. But Ms. Solomon was very upset. She
12 was telling him to come inside, come inside, come
13 inside. So with that, Jonah came around and
14 proceeded to respond to his mom to go inside.
15 And so I said, okay, we are not going to have a
16 visit this morning. And then Mr. Fishman of
17 course was upset, said she didn't have a right to
18 do that.

19 Q. Let me stop you for a second. So when
20 you are on the porch talking to Ms. Solomon, is
21 it fair to say you were trying to get
22 clarification whether Joanna would also join this
23 visit?

24 A. No, Joanna had an event that she was
25 at. My concern was about the text, because I had

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STIPULATIONS

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A. Yes. After his mother called him out a couple of times he went, you know, he went inside.

3

4

Q. What happened after that?

5

A. He went inside and Mr. Fishman was very upset because he was looking forward to the visit and he felt she had no right to call Jonah to come inside when actually he came to, you know, spend time with his son. And so I said, you know, Mr. Fishman, you know, the way things are right now, I don't think we can have_-- we're going to force to have a visit this morning which is at my discretion.

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However, he felt that the mother influenced Jonah not to have the visit, to come inside, she was interfering with his visit, with his time. And so we directed the aide to go to the police station about this because he was going to present the court paper regarding the visit and demand that Jonah have a visit with him that morning. So we proceeded, you know, to go to the police station.

23

24

Q. To the police station?

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A. Correct.

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STIPULATIONS

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Q. Just taking one step back. So when you were driving up towards New Rochelle, did you expect that you would be driving to the hockey rink?

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7

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A. No, there was no expectation of that because I had the phone text that I wanted to address with Ms._-- yes.

9

10

11

Q. So when Ms. Bolivar drove to Ms. Solomon's home, was that something that you were surprised about or not surprised about?

12

13

A. It wasn't the usual, but the fact she gave_-- I am trying to recall.

14

15

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19

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Usually she would do the drop off and I am just trying to recall what happened that morning. I was in the back of the car and the aide drove. So I am familiar now, okay. We are on the property where we do the drop off, right? I said, oh, we are going to pick up Jonah? And I said_--

21

22

23

24

25

Q. You said that in a questioning way?

A. Yes, that we are going to pick up Jonah this morning? And he said yes and I said okay. I mean, you know, mom usually does the drop off but there is some texts I need to

1 STIPULATIONS

2 address with her anyway, which I was planning to
3 do once I dropped off after the hockey game. So
4 we parked again a few yards where we normally
5 drop off and I would take the children in. So
6 that's where we parked. And so I said okay,
7 since we are here, let me address the texts as
8 opposed to after the visit.

9 Q. Understood. So it's fair to say as
10 you were driving into New Rochelle, you
11 anticipated that you would be going to the
12 restaurant or the hockey rink?

13 A. Right, she would drop us off at the
14 breakfast spot. I would text her and say we are
15 here.

16 Q. What was the name of that breakfast
17 spot, by the way?

18 A. I can't remember.

19 Q. How close was it to_--

20 A. It is just of his choosing, whether we
21 are going to go to the rink and eat or stop
22 somewhere. It's like, hey, Jonah, what do you
23 want, you know, where do you want to go?

24 Q. So it's fair to say as you were
25 driving up towards New Rochelle, you anticipated

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STIPULATIONS

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that Ms. Bolivar would drive to the breakfast

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spot?

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A. Yes, because the plan was, okay, we

5

are going to come up, we are going to do

6

breakfast before and they would just drop off

7

Jonah there, which wouldn't be too far from the

8

home.

9

Q. Okay. The way that would have worked

10

is you all would be at the breakfast spot, you

11

would communicate with Ms. Solomon by phone that

12

we are here, then she would drive Jonah and say I

13

am outside?

14

A. And I will go pick up Jonah.

15

Q. It did not happen that morning?

16

A. It did not happen that morning, yes.

17

Q. You were describing that Ms. Bolivar

18

was now driving towards police headquarters,

19

correct?

20

A. No, she was driving to where we do the

21

drop-off.

22

Q. No, no_--

23

A. Oh, yes, yes from there, now.

24

Q. I apologize because I went back and

25

forth a little bit. But now I just want to fast

STIPULATIONS

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2 hockey and then he walked to go inside his home.
3 And I think when he went in and came back out
4 while he seen his mom and I was talking and go
5 around, I think his dad may have seen that he was
6 around the corner and maybe probably told Ms.
7 Bolivar, you know, let's go meet up with Jonah on
8 the side.

9 Q. Did you ever have a conversation with
10 Ms. Bolivar to unpack that possibility?

11 A. No, we never discussed that.

12 Q. And your testimony is that you never
13 saw a printed copy of the order of protection?

14 A. I never did. I was always given a
15 copy.

16 Q. When you were interviewed by a member
17 of the police department, you said that was about
18 five, 10 minutes in length?

19 A. No, I think it may have been 10
20 minutes, 15 minutes.

21 Q. And as you sit here today, do you
22 recollect what you were asked and what you said?

23 A. It was just to recount what had
24 happened around the visit. Was the visit
25 confirmed, the stipulation of the order, the

STIPULATIONS

arrangement? You know, everything around the visit, what transpired the night before to that morning and on the way to the police station.

Q. Did you ever-- do you recall in your conversation with the police officer mentioning that you believed that Mr. Fishman's presence near Ms. Solomon's house was either a violation of the order of protection or a problem in any way?

MR. DEMIRAYAK: Note my objection to form. Over objection you can answer.

A. Yes, I don't believe I said that because I don't believe it was. I have no paperwork. I have no stipulation. And it was not out of what we were doing except we dropped off the kids as opposed to this day we were there to pick Jonah up.

Q. Did you bill Mr. Fishman for the day?

A. I can't even recall. I wasn't even thinking money. I know I got paid, but...

Q. He doesn't owe you money for that day, correct?

A. I don't think so. No, he always paid.

STIPULATIONS

MR. LOOMBA: That's it. Thank you
so much. I appreciate it.

MR. DEMIRAYAK: Thank you.

MR. LOOMBA: Off the record.

THE COURT REPORTER: Mr.
Demirayak, are you ordering the
transcript?

MR. DEMIRAYAK: Yes, we'll order a
copy.

(Time noted: 12:30 p.m.)

CERTIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

I, HOWARD BRESHIN, a Court Reporter
and Notary Public within and for the State of New
York, do hereby certify:

That I reported the proceedings that
are hereinbefore set forth, and that such
transcript is a true and accurate record of said
proceedings.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand.



HOWARD BRESHIN,
COURT REPORTER